IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.423 OF 1988

The State of Maharashtra
through
Special Land Acquisition Officer ...Appellant
Vs.
Vimal Narayan Vaishampayan & Ors. ...Respondents

Mr K.K. Tated, A.G.P. for the Appellant.
Mr G.R. Rege i/by Mr S.M. Railkar for the Respondent Nos.2 and 3.

CORAM : ABHAY S. OKA, J.

DATE : APRIL 25, 2006.

JUDGMENT:

1. Heard Shri Tated, the learned A.G.P. appearing for the Appellant and Shri Rege appearing for the Respondent Nos.2 and 3. The Appellant-State of Maharashtra has taken an exception to judgment and award dated 31st March, 1987 passed by the learned Joint District Judge, Nashik in a reference under section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act). By the impugned judgment and award, enhancement in the market value has been granted in favour of the claimants in the reference.

2. The record shows that the Appeal stands dismissed as against the Respondent Nos.1 and 4 who are the two of the claimants. Thus, the impugned

judgment and award has become final so far as the Respondent Nos.1 and 4 are concerned.

3. By the impugned judgment and award, the market value of the acquired land has been fixed at the rate of Rs.63/- per sq. meter. The impugned award has been passed jointly in favour of all the four Respondents. If the said award has become final as against the two Respondents, namely, the Respondent Nos.1 and 4, if the Appeal is heard on merits and even if the market value is reduced, there will be two inconsistent awards. Therefore, in view of dismissal of the Appeal as against the Respondent Nos.1 and 4, the Appeal does not survive and the same is dismissed. No orders as to costs.

4. If the claimants have withdrawn the compensation amount against furnishing security or bank guarantee, as a consequence of dismissal of the Appeal, it is obvious that the security or bank guarantee as the case may be stands discharged.

JUDGE